

The Josephinist and Biedermeier Eras

Joseph II and the Jews: the Origins of the Toleration Patent of 1782

That Austria's monolithic refusal to tolerate religious minorities within its borders in an age of increasingly general religious permissiveness would not for long outlive Empress Maria Theresa must have been apparent to all but the most obtuse contemporary observers. Throughout the period of his coregency (1765-1780), Joseph II had made it plain on more than one occasion that while, unlike Frederick the Great, he did not believe that all his subjects might attain their salvation in whatever way seemed best to them, he was, nevertheless, aware that many of them would persist in assuring their damnation in spite of the best efforts of Church and crown to save them. And he was unwilling to let the obduracy of a minority of his subjects cause the state to lose their wealth, their services, and their loyalty. Dominated by such radical ideas on the place of religious minorities in a state, Joseph, State Chancellor Prince Wenzel Kaunitz, and Franz Joseph Heinke, once Kaunitz's man but now independently charged with drawing up policy guidelines for a subsequent reorganization of Church-state relations, were as early as 1769 discussing not the advisability of tolerating non-Catholic religions but ways and means of implementing such toleration.¹

However, the old empress, who had already put through a considerable number of reforms in her dominions, was unwilling to give way on this one point. She could not reconcile what she believed to be the sure damnation of even the least of her subjects with her responsibilities as a Christian ruler. The people would have to be converted, even if against their

¹Ferdinand Maass, *Der Josephinismus. Quellen zu seiner Geschichte in Österreich* (5 vols., Vienna: Herold Verlag, 1951-61), Vol. II, pp. 240-250; Paul P. Bernard, *Joseph II* (New York: Twayne, 1968), pp. 106-108. Kaunitz sought to make the principle of toleration palatable to Maria Theresa by arguing that the teachings and example of Christ and the apostles did not permit a ruler to use force against even those who persisted in erroneous religious beliefs. See his memorandum of October 13, 1777, in Adolf Beer, "Denkschriften des Fürsten Wenzel Kaunitz-Rittberg," *Archiv für österreichische Geschichtsforschung*, Vol. XLVIII, Pt. 1 (1872), pp. 158-162.

will, or at the very least they would have to betake themselves elsewhere and become someone else's responsibility.²

Upon Maria Theresa's death in November, 1780, the question no longer was whether religious toleration would be introduced but rather what religions or sects would be tolerated. Joseph's first concern was to marshal the energies and support of significant groups of disaffected subjects. In a celebrated dispute with his mother he may have argued that nothing could be more absurd than to try to convert people against their will, but he was shortly to urge just that course upon his *Staatsrat* in the case of a handful of Moravians who had proclaimed themselves to be deists.³ In practice, only those religions which could claim a sufficient following to be statistically significant—mainly Protestants and Catholics of the eastern rite—were to be granted toleration.⁴

The case of the Jews was somewhat different. In Austria itself Jewish merchants had been active in late Carolingian times. By the middle of the thirteenth century a considerable number had settled there, and many of them prospered—a fact which in a century of increasingly virulent anti-Semitism did not escape the attention of the religious authorities. At a provincial synod in Vienna in 1267 the Jews were ordered to

²For a statement of Maria Theresa's views in a running debate with Joseph on the subject of toleration, see Maria Theresa to Joseph, July, 1777, in Alfred von Arneth, *Maria Theresia und Joseph II: Ihre Correspondenz sammt Briefen Josephs an seinen Bruder Leopold* (3 vols., Vienna: Gerold, 1867-68), Vol. II, pp. 157-159.

³Joseph to Maria Theresa, September 23, 1777, Arneth, *Maria Theresia und Joseph II*, Vol. II, pp. 160-161. See also Ernst Benedikt, *Kaiser Joseph II* (Vienna: Gerold, 1936), pp. 137-138. The pragmatic foundation of Joseph's views on the question of toleration is inescapable in numerous of his utterances, most notably in his memorandum concerned with the general condition of the monarchy, which was written in 1765: "En fait de foi et de moeurs toute execution ou violence ne corrige pas, il faut la propre conviction; néanmoins je ne voudrais jamais souffrir quelque scandal, publicté, ou un mal qui pût gêner des bons et innocents, mais des incorrigibles il faut tirer le parti qu'on peut les employer là où ils ne peuvent pas nuire, et fermer les yeux et oreilles sur leurs défauts." Arneth, *Maria Theresia und Joseph II*, Vol. III, p. 352.

⁴Within a year of the promulgation of the edict tolerating the Protestants (October 19, 1781) some 73,000 crypto-Protestants had declared their allegiance to the reformed faith. The number of non-Uniate Eastern Orthodox communicants, principally Serbs and Walachians, was also considerable. See Grete Mecenseffy, *Geschichte des Protestantismus in Österreich* (Graz: Böhlau, 1956), p. 210; and Paul von Mitrofanov, *Joseph II*, translated by V. M. Demelic (2 vols., Vienna, 1910), Vol. II, pp. 719-720. The standard work dealing with the Protestant toleration edict is G. Frank, *Das Toleranz-Patent Kaiser Josephs II* (Vienna, 1882).

adhere strictly to the ancient sumptuary laws so that they might at a glance be distinguishable from Christians. They were forbidden to keep Christian servants, required to compensate parish priests for the financial loss incurred because Jews rather than Christians lived in their parish, and placed under various other restrictions.⁵

The position of the Austrian Jews did not improve with time. They were expelled from one province after another until by the seventeenth century there were no Jews at all in Carinthia, Carniola, Styria, and Upper Austria. Finally, in 1670 Leopold I expelled from Vienna and Lower Austria the Jews who, by filling the void left by the virtual destruction of German commerce during the Thirty Years' War, had grown wealthy.

Their absence was soon noticeable, however. The experience and willingness to take financial risks of Jewish financiers and army contractors was something that an ambitious power of the first rank simply could not do without. This was particularly true in the case of Austria, the financial situation of which was so precarious during the reign of Leopold I that Eugene of Savoy wondered whether the emperor's policies amounted to more than a mass of contradictions.

Moreover, by the end of the century Austria was emerging as a great power and was attempting to attract persons with useful talents just as Prussia had under the Great Elector or Russia under Peter the Great. By 1690 a number of Jews were again residing in Vienna, equipped with letters of toleration that exempted them from the ban which was, at least in theory, still in effect.⁶ These letters of toleration, for which the Jews

⁵Ernst Tomek, *Kirchengeschichte Österreichs* (3 vols., Innsbruck: Tyrolia, 1935-59), Vol. I, pp. 109 and 220-225. A decree regulating the collection of customs duties in 905 refers to "legitimi mercatores, id est judei et ceteri mercatores." The synod of 1267 was held at the instigation of the Czech king Přemysl Otakar II, who had recently conquered the Duchy of Austria. Its decrees were valid for his Bohemian territories as well. The Austrian Jews had achieved what was probably their most favorable position in 1244, when Emperor Frederick II granted them a charter allowing them to share in his "grace and benevolence" equally with his other subjects. The subsequent reaction may well have been part of a larger anti-Hohenstaufen movement. See Allen W. A. Leeper, *A History of Medieval Austria* (Oxford: University Press, 1941), p. 337.

⁶Ludwig Singer, "Zur Geschichte und Bedeutung des Toleranzpatentes vom 2. Jänner 1782," *Bnai Brith Mitteilungen für Österreich*, Vol. XXXII (January, 1932), p. 4. See also Erich Zöllner, *Geschichte Österreichs. Von den Anfängen bis zur Gegenwart* (Vienna: Verlag für Geschichte und

were heavily taxed, were limited to heads of families, who were allowed to maintain their wives, dependent children, and a few servants. When Jewish children reached their majority they had to apply for individual letters, and, particularly in the reign of Maria Theresa, these privileges were as often as not refused. The empress regarded the Jews as a necessary evil at best and specified that their number was under no circumstances to surpass an absolute minimum; if at all possible, it was even to be reduced.⁷ As a result, the number of tolerated heads of families never exceeded twenty-five, and by the end of her reign the total number of Jews in Vienna was probably not in excess of 550.⁸

For even this small number existence was severely circumscribed. The *Judenordnung* of May 5, 1764, enjoined the Jews to invest their capital in enterprises giving employment to Christian workmen, severely limited the number of Jewish servants they might employ, prohibited them from keeping any Christian servants other than one coachman and two scribes, forbade them to engage in house to house peddling, declared

Politik, 1961), p. 277. The imperial *Hofkammer* complained that before their expulsion from the monarchy the Jews had been able to produce loans of 50 to 100,00 gulden within twenty-four hours in return for a "negligible tip." Afterward it proved impossible to raise as much as 10 to 15,000 gulden. See Max Grünwald, *Samuel Oppenheimer und sein Kreis*. In *Quellen und Forschungen zur Geschichte der Juden in Deutsch-Österreich*, Vol. V (Vienna: Braumüller, 1913), pp. 6-12. Oppenheimer was the most celebrated of the Jews who had again been granted letters of toleration.

⁷In 1777 two Jews requested the issuance of letters of toleration. Maria Theresa's answer was: "Beide völlig abzuweisen. Habs schon öfters befohlen hier die Jude zu verringen, keineswegs mehr zu vermehren, unter keinem Vorwand." As quoted in Hans Tietze, *Die Juden Wiens* (Leipzig, 1933), p. 104. In 1778 the *Staatsrat* debated a proposal to make even more stringent the regulations of the *Judenordnung* of 1764 but concluded that the 1764 decree provided for sufficiently effective control.

⁸This is only an estimate that has somehow found its way into the historical literature, but it is probably a reasonably accurate one. See, for example, Singer, "Zur Geschichte und Bedeutung des Toleranzpatent vom 2. Jänner 1782," p. 4; and Max Grünwald, *Vienna*. In *Jewish Community* series (Philadelphia, Pa., 1936), p. 141. Israel Taglicht was able to discover the testaments of 268 Jews who died in Vienna during the course of the eighteenth century. See his *Nachlässe der Wiener Juden im 17. und 18. Jahrhundert*. In *Quellen und Forschungen zur Geschichte der Juden in Deutsch-Österreich*, Vol. VII (Vienna: Braumüller, 1917). Most Jewish servants, of course, died intestate. In the religious census of 1784, two years after the issuance of the toleration patent, 542 Jews are listed. See A. Gürtler, *Die Volkszählungen Maria Theresias und Joseph II* (Innsbruck, 1909), Table vii.

that they were not allowed to buy real property, prevented them from appearing on the street before noon on Sundays, required married men and widowers to wear beards, restricted religious services to the home, prescribed that foreign Jews must reside in a Jewish inn (*Garküche*) and only for the time absolutely necessary for the transaction of their business, and made all Jews coming into Austria subject to the payment of the *Leibmaut*—a tax ordinarily levied on livestock.⁹

Not included in the 550 Jews presumed to be living in Vienna during the reign of Maria Theresa was a small Sephardic community, which according to tradition was founded by Diego de Aguilar, supplier to the armies of Charles VI. Since the Sephardic Jews, most of whom ultimately came from Constantinople, were separately tolerated as a group, they could claim foreign citizenship.¹⁰ The community, however, certainly did not exceed one hundred souls. These were clearly not the sort of numbers that would obtrude themselves upon Joseph's attention.

Bohemia and Moravia were another matter. In 1501 Václav II had granted the Czech Jews a *Privilegium* allowing them to live in the Czech provinces in perpetuity. Although they suffered the usual vicissitudes, considerable communities of Jews had maintained themselves in Bohemia, Moravia, and Silesia until the accession of Maria Theresa to the Habsburg throne. In the 1740's, however, the Czech Jews became involved in a situation that brought them near disaster. During the course of the First Silesian War a Bavarian-French army entered Bohemia and captured Prague. Some prominent members of the Czech nobility, among them the heads of the houses of Kolowrat, Kinský, and Chotek, believing that the war was lost, recognized Elector Charles of Bavaria, who had lately

⁹The *Judenordnung* of 1764 is printed in full in Alfred F. Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*. In *Quellen und Forschungen zur Geschichte der Juden in Deutsch-Österreich*, Vol. VIII (2 vols., Vienna: Braumüller, 1918), Vol. I, pp. 374-382. This extremely carefully edited collection of documents is all the more valuable since the two principal repositories of eighteenth-century Judaica—the *Polizei Akten* in the *Verwaltungsarchiv* and the *Staatsrat Akten* in the *Haus-, Hof- und Staatsarchiv*, both in Vienna—were destroyed by fire in 1927 and 1945, respectively.

¹⁰Grünwald, *Vienna*, pp. 130-134; M. Papo, "The Sephardic Community of Vienna," in Josef Fraenkel (ed), *The Jews of Austria* (London: Vallentine and Mitchell, 1967), pp. 328-332. The rationalization for tolerating the Sephardic community was that its members were Turkish subjects and thus not affected by domestic controls.

become Emperor Charles VII, as king of Bohemia. Since these men were the leading patrons of the Prague Jewry, it is hardly surprising that the Jewish merchants of that city followed suit and lent money to the occupiers. Contrary to all expectations, the Austrian monarchy, recovering from these blows with surprising resilience, expelled the French and Bavarians from Bohemia within a year. Maria Theresa, determined to punish her betrayers, sent a commission to Prague to deal with everyone who had been disloyal. By making full use of their connections at court, the great nobles were able to escape punishment, but the Jews were not so lucky. In December, 1744, an imperial decree ordered their ejection from Bohemia. The Czech estates, however, insisted that their continued presence in the Czech lands was an economic necessity, and after considerable debate the Jews were again given permission to reside there in 1748, but, in return, they were henceforth subjected to a special annual tax of 204,000 gulden.¹¹

The number of Jews who resided in the Czech lands at the end of Maria Theresa's reign has been estimated at between 8,300 and 8,600 families in Bohemia and roughly 5,000 families in Moravia, or a total Jewish population of something like 60,000.¹² The Jews in some areas of the Czech lands lived under restrictions which were more severe than those to which the Jews in the German provinces were subjected. The sumptuary laws were stricter. Adult men were not allowed to appear on the streets without yellow armbands, and women and girls had to wear yellow strips in their hair. As in Vienna, house-to-house peddling was forbidden. As a result of complaints from their Christian competitors, Jewish artisans were barred from several trades, including seal-engraving. Moreover, the prosperous and extremely able Jewish tailors were no longer allowed to do bespoke tailoring for Christian

¹¹Ludwig Singer, "Zur Geschichte der Toleranzpatente in den Sudetenländern," *Jahrbuch der Gesellschaft für Geschichte der Juden in der Cechoslowakischen Republik*, Vol. V (1933), pp. 235-236; Franz Krones, *Handbuch der Geschichte Österreichs* (5 vols., Berlin: Grieben, 1876-79), Vol. IV, pp. 209-218. In 1753 the tax was rounded off to 205,000 gulden.

¹²Singer, "Zur Geschichte und Bedeutung des Toleranzpatent vom 2. Jänner 1782," p. 4; Singer, "Zur Geschichte der Toleranzpatente in den Sudetenländern," p. 236. The religious census of 1784 showed a Jewish population of 41,780 in Bohemia and 26,862 in Moravia and Austrian Silesia. Gürtler, *Die Volkszählungen Maria Theresias und Joseph II*, Table vii.

clients—a restriction, incidentally, which led directly to the establishment of the first ready-made clothing industry in Central Europe.¹³

But the Czech Jews were numerous enough, and, in spite of all restrictions, their economic position was important enough so that Joseph could not very well overlook them. In Hungary, too, the number of Jews was not negligible, although their numbers were considerably reduced after the final defeat of the Turks in the last two decades of the seventeenth century, for the local population lost no time in avenging itself upon a people which, having been allowed to live in peace under the Ottomans, had cooperated with them economically. Nevertheless, in 1780 between 15 and 20,000 Jews were still living in Hungary.¹⁴

Any doubts that anyone might have entertained about the magnitude of the Jewish problem in the Habsburg dominions must have been resolved after the first partition of Poland in 1772. As Joseph had been able to observe at first hand when traveling to Russia in the spring of 1780, the part of Galicia annexed to the Habsburg monarchy contained as many as 250,000 Jews¹⁵—several times more than there were in all the rest of the monarchy.

Joseph's calculations about the economic usefulness of the Jews were not based merely on abstract conjectures about their potential value. For some time the Jews had been contributing materially to the Austrian economy. They were now beginning to make modest but unmistakable demands for a modicum of concessions in return. The case of Amschel Arnstein, a tolerated Jew of Vienna, who threatened to close up shop and leave the country unless he obtained a remission of his toleration tax, was not an isolated one.¹⁶ And there is some

¹³Singer, "Zur Geschichte und Bedeutung des Toleranzpatent vom 2. Jänner 1782," p. 4; Singer "Zur Geschichte der Toleranzpatente in den Sudetenländern," pp. 237-238.

¹⁴Semen Dubnow, *Die Geschichte des jüdischen Volkes in der Neuzeit* (10 vols., Berlin, 1925-29), Vol. VII, pp. 282-283. This estimate may be too high. The religious census of 1735 listed 11,620 Jews, but the belief was widely held that in it their numbers were deliberately minimized.

¹⁵In 1780 a religious census listed 151,302 Jews in Galicia. See Gürtler, *Die Volkszählungen Maria Theresias und Joseph II.*, p. 117. This number is certainly too low. By contrast, M. Henisch's assertion that in 1772 there were 800,000 Jews in Austrian Galicia (see his "Galician Jews in Vienna," in Fraenkel, *The Jews of Austria*, p. 361) is a wild exaggeration.

¹⁶Tietze, *Die Juden Wiens*, p. 107.

reason to believe that various projects involving the mass emigration of Central European Jews to Palestine were taken seriously enough by a number of officials to make them wonder whether it might not be necessary to improve the conditions under which the Jews lived.¹⁷

Finally, it seems a not unwarranted assumption that, all thought of economic advantage aside, Joseph was also influenced to some extent by the various appeals which were beginning to emanate from the more enlightened of the philosophes for a more humane treatment of the Jews. In 1749, when the German dramatist Gotthold Ephraim Lessing produced his drama *Die Juden*, in which the Jewish protagonist was motivated by selflessness and a sense of honor, the general reaction even in academic circles was at best a patronizing disbelief: Jews simply did not behave that way. Thirty years later, upon the appearance of Lessing's *Nathan the Wise*, the scoffers were much less sure of themselves.

The proposition that Jews also could be honorable men, motivated by higher considerations, was no longer rejected as manifestly absurd in all quarters. The change in attitude was due not only to the penetration of rationalistic influences into the German cultural sphere but equally to the "Jewish" enlightenment that Moses Mendelssohn and his school had been insisting on. Many of the *Hoffjuden* or the *Schutzjuden* were, in fact and undeniably, cultivated people.¹⁸

This changed attitude towards the Jews was duly noted in a book published in Berlin early in 1781 by Christian Dohm, who argued that, while the Jews as a people were manifestly not without faults, their faults were a direct consequence of the bad treatment to which they were everywhere subjected. Once granted full citizenship and equal rights, they would prove to be useful citizens.¹⁹ Dohm's book was read and

¹⁷F. Priebatsch, "Die Judenpolitik des fürstlichen Absolutismus im 17. und 18. Jahrhundert," in *Festschrift Dietrich Schäfer* (Jena, 1915), p. 620. For a detailed description of these projects, see Paul P. Bernard, "Zion through a Spy-Glass, Darkly," *The Colorado College Studies*, Vol. X (April, 1968), pp. 1-39.

¹⁸Dubnow, *Die Geschichte des jüdischen Volkes in der Neuzeit*, Vol. VII, pp. 361-376; Oskar Wolfsberg, *Zur Zeit- und Geistesgeschichte des Judentums* (Zürich: Die Gestaltung, 1938), pp. 58-61. For Lessing, see Adolf Bartels, *Lessing und die Juden* (Dresden: Koch, 1918).

¹⁹Christian W. von Dohm, *Über die bürgerliche Verbesserung der Juden* (Berlin, 1781). For the influence of Dohm's views in France, see Arthur Hertzberg, *The French Enlightenment and the Jews* (New York:

discussed in Vienna by many people, among them the members of the *Staatsrat* who would ultimately be consulted by Joseph on the matter of including the Jews in any toleration edict.²⁰

The prominent playwright and actor Stephanie the Younger also influenced at least some Austrians to think more kindly about the Jews. His stock-in-trade in such plays as *Die abgedankte Offiziere* was a Jewish character who spoke broken German with exaggerated gestures but acted on elevated motives. The philistines might hoot and mock his appearance on the stage, but the more reflective members of the audience would not miss the point that the Jew was a more sympathetic character than his Christian antagonists and tormentors.²¹

That there was at least sufficient reason to tolerate the Jews, as well as the Protestants and the non-united Greeks, can be demonstrated fairly easily. The exact sequence of events that led Joseph to order the *Staatsrat* to begin discussions on what kind of toleration edict was to be issued is more difficult to establish. Since the end of 1778 Jewish matters had not come up for discussion in that body at all, with the one quite unimportant exception of a jejune dispute between a Christian landlord and his Jewish tenants.²² Then, suddenly on May 13, 1781, the *Staatsrat* received a lengthy instruction, partly written in the emperor's own handwriting, ordering it to consider a series of changes in the regulations dealing with the Jews—changes extensive enough to constitute at least a partial revolution.²³

Columbia University Press, 1968), p. 185. Mendelssohn suggested the subject to Dohm as an antidote to various anti-Semitic publications then appearing in Alsace.

²⁰Tietze, *Die Juden Wiens*, p. 114. In his memoirs, Dohm specifically denied having influenced the Josephinian toleration patent, but since he was defending himself against charges of excessive philo-Semitism at a time when such an accusation might well be damaging (1815), his disclaimer should not be regarded as conclusive. See Christian W. von Dohm, *Denkwürdigkeiten meiner Zeit* (5 vols., Lemgo, Hanover: Helwing, 1814-19), Vol. II, p. 289, n. 8.

²¹Tietze, *Die Juden Wiens*, p. 106. For Gottlob Stephanie, called "The Younger," see Josef Nadler, *Literaturgeschichte der deutschen Stämme und Landschaften* (4 vols., Regensburg: Habel, 1912-28), Vol. III, p. 47; and Johann W. Nagl, Jakob Zeidler, and Eduard Castle, *Deutsch-österreichische Literaturgeschichte* (4 vols., Vienna: Fromme, n. d.), Vol. II, p. 467.

²²Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 439-440.

²³The text is in *ibid.*, pp. 440-442.

Joseph II's instruction, as we shall shortly see, was far too complex in conception and detail to have been the product of a momentary inspiration. Yet, there is no record of any preliminary formulation of Joseph's views. It is, of course, possible that Joseph simply thought about the matter without communicating his views to anyone before he arrived at a formulation that appeared suitable to him, but in general that was not his way of doing things. Almost always when he was gripped by an idea he bombarded his ministers, subordinates, and acquaintances with preliminary, sometimes barely formulated, drafts. The total absence of any such correspondence has led to speculation that perhaps the authorship of the instruction should not be attributed to Joseph, or that, at the very least, it was based upon a similar but already full-blown proposal originating elsewhere. If there ever was such a document, it must have been the so-called "anonymous memoir" of 1781²⁴—a defense of the Jews which in all probability came into Joseph's hands early in 1781. Its argument was twofold: (1) the shortcomings of the Jewish people were not the result of any inherent viciousness but rather the direct result of the oppressions with which they had to contend in Christian society; (2) it was manifestly unjust to subject the tolerated Jews—all highly cultured people—to the same strictures under which their less fortunate coreligionists labored.

Nothing is known either about the author of this by no means elevated piece of special pleading or about how it came to Joseph's attention, but recently an imaginative, if highly conjectural, attempt to supply an answer to these questions has been made.²⁵ Joseph, it seems, was very fond of a secretary in his chancellery, a certain Vallentin Günther, in whose company he spent many of his leisure hours. This Günther had a Jewish mistress, Elenore Eskeles, the sister of Bernhard Eskeles, a leading intellectual among the tolerated Jews of Vienna. Thus, it seems at least plausible that the "anonymous memoir," presumably the work of Eskeles, was brought to Joseph's attention by Günther.²⁶

²⁴*Ibid.*, p. lxx. This memoir has not been preserved, but its contents can be reconstructed from a position paper (*Vortrag*) which Counts Heinrich Blümegen and Heinrich Auersperg of the *Hofkanzlei* submitted to the *Staatsrat* on September 7, 1781. See *ibid.*, pp. 443-463.

²⁵Hilde Spiel, *Fanny von Arnstein oder die Emanzipation* (Frankfurt a. M.: Fischer, 1962), pp. 109-114.

²⁶Shortly thereafter Günther was embroiled in a murky affair, in-

Joseph himself declared that his intention in issuing his instruction of May, 1781, was to make the numerous Jews living in his dominions more useful to the state. To accomplish this end, it would first be necessary to abolish the linguistic barrier that separated the Jews from the rest of his subjects. Henceforth the Jews should be allowed to make use of Hebrew or to write with Hebrew characters only for ritualistic purposes. All their secular transactions would have to be recorded in the language appropriate to the region in which they took place. To enable the Jews to learn these languages, they should not only be permitted but be encouraged to attend Christian schools, even universities; in regions where this was not practicable, special schools should be attached to the synagogues. Furthermore, in order to discourage the existing unhealthy concentration of Jews in moneylending, they should be encouraged to work in the carrying trades; to learn trades such as shoemaking, tailoring, bricklaying, carpentry, and even architecture; to learn painting and sculpturing; to become skilled workers in factories; to enter the textile trade; and even to become agricultural laborers, although landownership was not to be permitted them. Finally, as an afterthought it would almost seem, all sumptuary or otherwise humiliating legislation affecting the Jews was to be abolished.²⁷

It will readily be seen that the emperor's intention was, above all, didactic. The Jews were to be transformed into more useful citizens by a process of economic diversification. It might be interjected here that Joseph does not seem to have had a very clear notion of the activities which his Jewish subjects actually pursued. There was certainly no lack of Jewish tailors, sculptors, and engravers; and to recommend the textile trade to the Jews was, to put it mildly, a work of supererogation. Still, opening up a number of these occupations to the Jews, particularly those in the building trades, would mean a drawn-out conflict with the guilds that con-

volving blackmail, confidential documents, Jewish middlemen, and Prussian agents. Although he was eventually absolved of all guilt, he was, nevertheless, banished to a dim post in distant Transylvania. Spiel, *Fanny von Arnstein oder die Emanzipation*, pp. 114-117; Mitrofanov, *Joseph II*, Vol. I, p. 273. See also Joseph to his brother Leopold, July 1, 1872, Alfred von Arneth, *Joseph II. und Leopold von Toscana: ihr Briefwechsel* (2 vols., Vienna: Braumüller, 1872), Vol. I, pp. 125-126.

²⁷Three days later this instruction was sent in unchanged form to all local governing agencies.

trolled them, and allowing Jewish children to attend Christian schools was certain to produce a conflict with the Catholic hierarchy.

It is thus anything but surprising that the *Staatsrat's* reception of Joseph II's instruction was a cautious one.²⁸ Although the emperor's intentions were laudable, the difficulties that would be encountered if his ideas were put into practice were considerable, and for the time it seemed best to proceed slowly. Only Baron Tobias Gebler went beyond a narrowly utilitarian view and referred to "die so weisen, dem saeculo und der Regierung Ruhm bringenden Absichten."

Because Joseph insisted that his instruction be submitted to all the *Gubernia*, it soon and unavoidably became a matter for public debate and partisan polemics. In Prague in June of 1781 was printed a pamphlet whose author chose to remain anonymous though in all probability he was Leopold A. Hoffman. The author of the pamphlet maintained that the Jews had already demonstrated their worth by accumulating considerable fortunes in spite of the handicaps under which they were forced to live and that if, as the emperor proposed, their status were to be improved, they would be turned into even more valuable members of society.²⁹

Hoffman's defense of Joseph's proposals drew a prompt reply. One Ignatz Klingler circulated a memorandum to members of the local *Gubernium* in which he repeated many of the ancient Christian accusations against the Jews. Apart from their troublesome habit of making use of Christian blood for ritualistic sacrifices, he maintained, they were dishonest in trade, cowardly when forced to fight, and useless as civil servants. (After all, were they not barred from the civil service?) Getting down to particulars, he objected to legislation which would permit Jews to work in agriculture, since there was already a surplus of agricultural laborers. He insisted, moreover, that allowing Jews to work in the transport trade

²⁸Four *Staatsrat* members—Löhr, Gebler, Kressl, and Hatzfeld—submitted *Gutachten*. Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 442-443. There is some reason to believe that Gebler, who had previously urged the *Staatsrat* to consider ways and means of diverting the Jews of Galicia from petty trade to agriculture, urged Joseph to give the "anonymous memoir" his most serious attention. See Singer, "Zur Geschichte und Bedeutung des Toleranzpatent vom 2. Jänner 1782," pp. 8-9.

²⁹Anonymous, *Über die Juden und deren Duldung* (Prague, 1781).

would bring about a massive increase in smuggling. Any legislation to improve the economic status of the Jews should be avoided; they already controlled one-third of the wealth of Bohemia, and even if they were given no additional advantages all the money in the whole monarchy would be in their hands within half a century.³⁰

While the merits of the emperor's proposed reforms were being debated, Joseph was away on a visit to the Austrian Netherlands, and the cause of toleration languished. Those Jews who, perhaps in the belief that talk of reform was the equivalent of reform itself, sought privileges not normally extended to them under the existing regulations were disabused of this notion in unmistakable terms. When the tolerated merchant Haim Camondo requested the issuance of letters of citizenship, which, he claimed, would be of great advantage in the conduct of his business, he was met with an indignant refusal and was told that Jews were not citizens.³¹ Shortly afterward the *Hofkanzlei* received a denunciation from a certain Seid Mahomet to the effect that a number of Jews were falsely claiming to be Ottoman subjects and thus falsely enjoying the blanket immunities granted to the Sephardic community. This accusation was passed on to the *Staatsrat* with the strong recommendation that, if this were indeed the case, the guilty should be rounded up and expelled at once.³² At about the same time, when the emperor's intentions became generally known, a dispute arose concerning the *Leibmaut*. This tax had been farmed out to various entrepreneurs, who now complained that, if it were no longer applied to Jews but only to livestock, their business would be so adversely affected that the investment they had made would be compromised. The imperial *Hofkammer* took the side of the complainants and advised the *Hofkanzlei* that if Joseph's intentions were translated into law some way had to be found to safeguard their interests.³³

³⁰Ignatz Klingler, *Über die Unnütz- und Schädlichkeit der Juden im Königreich Böhmen, Mähren und Österreich* (Prague, 1782). Although not printed until 1782, Klingler's diatribe was circulated in manuscript form in the summer of 1781. See Singer, "Zur Geschichte der Toleranzpatente in den Sudetenländern," p. 244.

³¹Haus-, Hof- und Staatsarchiv (Vienna) (hereafter cited as "Staatsarchiv [Vienna]"), *Noten von der Hofkanzlei*, June 7, 1781.

³²*Ibid.*, August 15 and September 11, 1781.

³³Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, p. 501.

By the beginning of September Joseph was back in Vienna and insisting that the appropriate agencies submit their replies to his instruction of May.⁸⁴ The *Hofkanzlei* reported on September 7 that it had already consulted with the Lower Austrian government and that it was now making its recommendations on the basis of the consultations.⁸⁵ As previously noted, the *Hofkanzlei* took issue with the "anonymous memoir" defending the Jews, arguing in reply that the unfavorable situation of the Jews in the monarchy was not the consequence of unreasoning prejudice but rather of their own multiple faults and transgressions. Only if they were to abandon once and for all their own narrow hatred of all other religions and their unethical conduct could they aspire to genuinely equal treatment. For the time being, it would be a grave mistake to go too far in making concessions to them. It would, for instance, be unwise to accord them the right to maintain a synagogue in Vienna even though there should be no question of granting them equality. At most some archaic and not particularly profitable strictures which diminished their economic worth to the state might be removed.⁸⁶

Turning to Joseph's specific proposals, the *Hofkanzlei* maintained that (1) since the Jews all knew German already but used Hebrew in order to prevent outsiders from gaining insight into the dubious nature of their dealings, it would be pointless to go to considerable effort to teach them that language. Stringent regulations forbidding them to keep their books in Hebrew characters would suffice to make them more useful to the state. (2) While it might prove advantageous to insist that the Jews send their children to school, they should not be permitted to enroll them in Catholic educational institutions because this would only give free rein to the well-known Jewish proclivity for spreading calumnies about Christians. Moreover, the Jews themselves would object to the proselytizing influence of these schools on their own children. (3) If the Jews were to be allowed to learn trades hitherto

⁸⁴Frank, *Das Toleranz-Patent Kaiser Josephs II*, pp. 21-22.

⁸⁵The text is in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 443-464. The report of the government of Lower Austria seems no longer to be extant.

⁸⁶According to this report, there were thirty-three tolerated families in Vienna, who paid 7495 gulden in toleration money annually. The *Leibmaut* brought in 5360 gulden a year. These sums were not so great that the economy could not absorb their loss.

forbidden them, it would be preferable to have them learn these trades abroad. It was unthinkable for a master craftsman within the monarchy to take on Jewish apprentices. (4) The emperor's hope that Jews could be persuaded to go into agriculture was ill-conceived. (5) It would, however, be desirable to rescind the sumptuary laws, which were an anachronism and merely served to exacerbate the Christians' distaste for the Jews. Finally, the *Hofkanzlei*, in all submissiveness, expressed the hope that it had correctly understood his intentions to be that, while some improvements were to be made in the condition of the Jews, the number of tolerated Jews was under no circumstance to be increased.

This was thin beer when compared to Joseph's original concept, and at least one member of the *Hofkanzlei*, Joseph Greiner, felt strongly enough about this discrepancy to submit a separate report.³⁷ The recommendations of the *Hofkanzlei*, he argued, were essentially to leave things as they were, whereas inherent in Joseph's original proposal was a far more challenging and exciting question: should not the Jews be placed on the same footing as all the emperor's other subjects rather than continue to be merely tolerated as a restricted and circumscribed minority? It was the emperor's desire to make better and more useful subjects of the Jews. Throughout recorded history ambition and hope had been shown to be the forces that had enabled a people to better itself. The reforms suggested by the *Hofkanzlei* would give the Jews very little of either. The assumption that the Jews would never consent to work on the land was entirely gratuitous; in Bohemia they had done so for generations. Furthermore, the example of such countries as the Netherlands showed that granting them complete equality produced only desirable results. The authorities had no reason to fear that such a practice would result in wholesale conversions to Judaism.

Both the *Hofkanzlei* report and that of Greiner now went to the *Staatsrat*, where they were debated in a series of meetings during the rest of September. It became evident when the arguments continued at length that inclusion of provisions dealing

³⁷The text is in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 464-473. Greiner had an affinity for taking independent positions. The previous year it had been largely on his insistence that a wine tax was introduced which, while remunerative, led to a series of popular demonstrations against the crown. See Mitrofanov, *Joseph II*, Vol. I, p. 399.

with the Jews in the toleration act then being debated would be impossible. Accordingly, the Edict of Toleration of October 11, 1781, made no mention of the Jews.

The September discussions in the *Staatsrat* were characterized chiefly by united opposition to Greiner's more liberal proposals. Even Gebler warned against measures which might lead to the proliferation of the Jews in the monarchy and insisted that the toleration tax be retained. Another member, Count Karl Hatzfeld, argued that the *Leibmaut*, which had produced a not inconsiderable sum of money, must be retained. If the Jews found it humiliating to be taxed along with domestic animals, a simple solution was to change the name of the tax. As for trades, he had no objection to Jews' being allowed to learn them, but he was unalterably opposed to their being allowed to practice them, for the Christian artisans would be ruined by their competition. Prince Wenzel Kaunitz concurred with these various judgments.⁸⁸

Having listened to these lengthy debates, Joseph decided on October 1, 1781, to publish an imperial resolution making his intentions known to the general public.⁸⁹ His intention, he began, was by no means to increase the number of Jews in his dominions. Neither did he wish to introduce them into those provinces where they had heretofore not been allowed to reside. Except for the purpose of establishing a factory or similar industrial enterprise, no Jews were to be allowed to settle in the Lower Austrian countryside. The toleration tax, which was to be looked on as a normal tax, was not only to remain in effect but also to be adjusted to the Jews' real ability to pay. The *Leibmaut*, however, was to be abolished. There were to be special schools for Jewish children, but Jewish pupils were also to be permitted to attend Christian educational institutions. The Jews were to have permission to be apprenticed to tradesmen and to engage in trades, subject to existing regulations. Finally, a detailed act was to be drawn up to replace the *Judenordnung* of 1764.

⁸⁸The *Staatsratgutachten* have been reproduced in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 473-476.

⁸⁹The text is in *ibid.*, pp. 476-477. Although the emperor's resolution was sent to the *Gubernia* at once, it was not until October 19 that it was published as a *Gubernialdekret*. See *Sammlungen der kaiserlich-königlichen-landesfürstlichen Verordnungen und Gesetze* (Prague, 1782). Thus, counting the time elapsed in transmitting the correspondence, it took less than two weeks to dispose of the objections of the *Gubernia*.

The emperor's resolution was a compromise, far removed from Greiner's minority view and falling considerably short of his own intentions as expressed in May. Nevertheless, the act still went too far for some. The Bohemian *Gubernium* objected at once. In its opinion, Joseph's resolution proposed a course directly opposite to what the real interest of the monarchy demanded. The influence of the Jews was hopelessly detrimental; only the rich ones should be tolerated; the others should be deported to some remote region, preferably the Banat of Temesvár.⁴⁰

The opposition within the *Staatsrat* was expressed in more moderate terms and tended to center around the abolition of the *Leibmaut*. Once more there was the objection that the *Leibmaut* represented a property value. If it were abolished, could one not at least exact an equivalent payment from the Jews? Only when it was pointed out that the *Leibmaut Pächter*, who had bought the right to collect the tax, were none other than the tolerated Jews of Vienna did the sense of outrage over the possible violation of property right subside in the *Staatsrat*.⁴¹ While secondary arguments, for the most part of an increasingly niggling character, continued, Joseph pressed for action. He insisted that successive drafts of the proposed patent be sent to him for approval, and he returned them with his own revisions.⁴² When all subsidiary disputes had at last been resolved, the patent was turned over to Joseph von Sonnenfels for a final stylistic revision.⁴³ After some further haggling over style, the patent was at last published on January 2, 1782.⁴⁴

The patent did not differ markedly from Joseph's resolution of October 1. After a preamble that once more emphasized that

⁴⁰Singer, "Zur Geschichte der Toleranzpatente in den Sudetenländern," pp. 249-250.

⁴¹Staatsarchiv (Vienna), *Staatsratsprotokolle*, 1781. See also Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 501-502.

⁴²Staatsarchiv (Vienna), *Handbillets-Protokollen*, Fasz. V (1781). A fairly complete draft of the patent was ready on November 16. See Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 478-484.

⁴³A copy of the patent, with Sonnenfels' suggested revisions in the margin can be found in the *Niederösterreichisches Landesarchiv* (Vienna), *Normale*, 1782.

⁴⁴The text is in Pribram, *Urkunden und Akten zur Geschichte der Juden in Wien*, Vol. I, pp. 494-500.

the emperor's main concern was that of improving the economy of the monarchy, the patent listed the following important stipulations: (1) There was to be no change in the status of the Jews of Vienna. No synagogues were to be allowed, and no religious books could be printed. They would have to be secured from Bohemia as had previously been done. (2) The number of tolerated Jews was not to be increased. Moreover, Jews were not to be admitted to provinces from which they had hitherto been excluded. (3) Foreign Jews had to obtain the special permission of the emperor to stay in Vienna. (4) All Jews were to submit to the administrative authorities detailed financial statements which were to be used in fixing their toleration tax. (5) Tolerated Jews could maintain households consisting only of their wives and minor children. (6) Upon marriage, all children of tolerated Jews would automatically forfeit their tolerated status. (7) Jews were allowed to settle in Lower Austria outside of Vienna only if they established a factory approved by the authorities. (8) The Jews were to be encouraged to establish schools whenever it was feasible. (9) As there was no law forbidding it, Jews were encouraged to attend the universities. (10) Jews were given permission to apprentice themselves to Christian masters, but no pressure was to be put on the latter to accept Jewish apprentices. (11) The Jews were given permission to work in all trades and in the arts, but they were not allowed to become master craftsmen or to attain citizenship. (12) They were specifically encouraged to engage in big business (*Grosshandel*). (13) They were also encouraged to found factories. (14) Jewish moneylenders were permitted to lend money against the pledge of real estate as security, but they were not allowed to seize it in case of the default of the loan. (15) After the lapse of a two-year period no document written in Hebrew or with Hebrew characters was to have any legal validity. (16) Jews were allowed to keep both Christian and Jewish servants, but the latter had to be selected from Jews already in the country. (17) Jewish servants were to be either unmarried or married to servants in the employ of tolerated Jews. (18) Hereafter Jews were not to be restricted to renting rooms in houses specifically reserved for them (the *Judenhäuser*) but were permitted to rent quarters anywhere in the city or in its suburbs. (19) The *Leibmaut* was to be abolished, although the crown reserved the right to collect an appropriate

sum from the Jews to compensate the *Pächter*. (20) Transient Jews were not to enter into competition with established tolerated Jews. (22) They could, however, deal in whatever goods they wished at recognized annual fairs. (23) The practice of collecting double judicial taxes from Jews was abolished. (24) Also abolished were the sumptuary laws, the prescriptions requiring adult Jewish males to wear beards, and the regulations forbidding Jews to be seen in places of public entertainment. Jewish *Grosshändler* were to have the privilege of wearing swords in public. (25) As the foregoing enactments would give the Jews a position of near-equality (*beynahe gleichsetzen*), they were to show due appreciation for them. Above all, they were to abstain from offering any offense to the established religion, lest instant expulsion be their lot.

"Near-equality," in view of the restrictions specifically continued by the patent, seems something of an exaggeration. At best, it was a beginning, which allowed the Jews of the monarchy to await better times in situ.

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